



MAYOR AND COUNCIL AGENDA

NO. 9

DEPT.: Legal / Community Planning and Development Services DATE: Feb. 7, 2005
STAFF CONTACT: Deane Mellander

SUBJECT: Adoption of resolution to approve Preliminary Development Plan application PDP2004-00008: To allow an increase in the height and setback of the Phase 3 building at the Rockville Metro Center development; Rockville Metro Center (Foulger-Pratt), applicants.

RECOMMENDATION: Adopt resolution

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Fiscal Impact: ☐ Within budget ☐ Over budget:

Fund: ☐ General ☐ Capital Projects ☐ Parking ☐ Water ☐ Sewer ☐ Refuse
☐ SWM ☐ Debt Service ☐ Other:

DISCUSSION/HISTORY/BACKGROUND: The applicant is proposing a Preliminary Development Plan for the purpose of revising the height of the proposed third building fronting on East Middle Lane. The project was originally approved under the standard method of development under Use Permit USE97-0577. The amendment would allow an additional story of building height up to 15 feet. Allowing the additional building height will allow the applicant to set the building back 30 feet from the common property line with Block 5 of the Rockville Town Square project. This is an increase of 15 feet from the separation between buildings as currently approved. This would allow for greater light and air for the offices that would face the building on Block 5 of the Town Square project. No other changes to the conditions or requirements of the original project approval are proposed, other than very minor changes to comply with current regulations, such as provision of public art.

A summary of the public hearing testimony is provided as Attachment 2. The applicant presented the only testimony in support of the application. The Mayor and Council requested additional information regarding pedestrian movements at the ground level, and if these have changed from the previously approved use permit for the project. The applicant has addressed these items in Attachment 3. At the Discussion and Instruction session held on January 10, 2005, the Mayor and Council instructed staff to proceed with preparation of the ordinance.

Options Considered (pros and cons): N/A

Boards and Commissions Review: The Planning Commission considered this proposal at their meeting on November 17, 2004. The Commission considered the staff recommendation and recommends approval. Their recommendation is on Attachment 4. The staff recommended approval of the proposed PDP application with one additional condition to show existing easements, including the easement for truck access to East Middle Lane from Block 5 of the Town Square development. The applicant agreed to this added condition, which is included in the Planning Commission's recommendation.

Change in Law or Policy: N/A

Next Steps: N/A

PREPARED BY:

Deane E. Mellander
Deane Mellander, Planner III

APPROVE:

Robert J. Spalding
Robert J. Spalding, AICP, Chief of Planning

1/25/05
Date

APPROVE:

Arthur D. Chamber
Arthur D. Chamber, AICP, Director, CPDS

1/25/05
Date

APPROVE:

Scott Ullery
Scott Ullery, City Manager

1/18/05
Date

LIST OF ATTACHMENTS:

1. Resolution of approval.
 2. Summary of Public Hearing Testimony.
 3. Applicant's response to issues raised at the hearing.
 4. Planning Commission recommendation.
 5. Staff report to the Planning Commission.
-

Resolution No. ____

RESOLUTION:

To approve, with conditions,
Preliminary Development
Plan Application No.
PDP2004-00008, Rockville
Metro Plaza I, LLC, F.P.
Rockville II, Limited
Partnership, F.P. Rockville
III, Limited Partnership,
Applicants

WHEREAS, by letter dated January 5, 1999, the City of Rockville Planning Commission approved Use Permit Application USE1997-0577, Rockville Metro Plaza, Applicant, subject to certain conditions as more fully set forth in said letter; and

WHEREAS, said use permit was filed pursuant to the Optional Method of Development for the TCM-2 Zone which allows building heights of up to 100 feet; and

WHEREAS, said Use Permit provided for a 620,000 square foot office and retail complex consisting of three buildings located at the northwest corner of the Rockville Pike and East Middle Lane intersection; and

WHEREAS, the developer proposes to retain the approved Phase III building, but increase the building setback from the adjoining Lot 18 from 15 feet to 30 feet; and

WHEREAS, in order to increase the setback while retaining the approved 173,530 square feet of gross floor area, an additional floor is proposed to be added to the top of the building; and

WHEREAS, because the additional floor will exceed the 100 feet of building height permitted under the standard method of development in the zone, the applicant must obtain approval of a Preliminary Development Plan under the optional method of development; and

WHEREAS, no other changes to the approved Use Permit, site plan or building footprint are proposed; and

WHEREAS, Rockville Metro Plaza I, LLC, F.P. Rockville II Limited Partnership, and F.P. Rockville III Limited Partnership, 4600 Blackwell Road, Rockville, Maryland 20854, filed Preliminary Development Plan Application PDP2004-00008, requesting approval of a Preliminary Development Plan to amend an existing approved use permit to add an additional floor to the Phase 3 building of the Foulger Pratt project and increase the building setback from 15 to 30 feet; and

WHEREAS, pursuant to Section 25-682 of the Zoning and Planning Ordinance, the Planning Commission, at its meeting of November 17, 2004, reviewed the subject application and recommended approval of the application subject to certain conditions as set forth in a memorandum dated November 18, 2004, and

WHEREAS, pursuant to Section 25-682 of the Zoning and Planning Ordinance, the Planning Commission and the Mayor and Council held a joint worksession on September 20, 2004, to review the proposed application; and

WHEREAS, pursuant to Section 25-682 of the Zoning and Planning Ordinance, the Mayor and Council gave notice that a public hearing on said Application would be held by the Mayor and Council of Rockville in the Council Chambers at Rockville City Hall on December 6, 2004, at 7:00 p.m. or as soon thereafter as it may be heard, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on December 6, 2004, the said application came on for hearing at the time and place indicated in said notice; and

WHEREAS, said matter having been fully considered by the Mayor and Council, including comments from the Planning Commission, the Mayor and Council having found and determined that approval of the Optional Method of Development is in substantial accordance with the Master Plan, is consistent with the intent and purpose of the Special Development Procedures set forth in the Zoning and Planning Ordinance, and is compatible with adjacent existing and permitted uses and developments, as more specifically set forth below:

1. *The site must be a minimum of two acres.* The overall size of Lot 16 is 3.53 acres.
2. *The applicant must submit a traffic study in conformance with the Comprehensive Transportation Review methodology.* A traffic study was done in conjunction with the review of the use permit application. There is no change in the approved floor area nor any change proposed in the site circulation. Therefore no new traffic study is required.
3. *Development is subject to an urban design review process.* One of the conditions of approval of the PDP is that each use permit must generally comply with the adopted Design Guidelines for the Town Center. The illustrative plan generally complies with the Design Guidelines.
4. *A shadow study must be performed, such that no building can cast a shadow on an existing or approved residential structure between 10:00 a.m. and 2:00 p.m. on December 21.* At the time the original use permit was approved, there was no development existing or proposed on the adjoining property to the west. Any shadows from the proposed building would fall on parking lots. The shadow study submitted by

the applicant indicates that any shadow falling on the adjoining proposed building on Lot 18 between 10:00 a.m. and 2:00 p.m. will be no worse or better than the approved condition. With the 10 foot setback of the new story at the top, and the added 15 feet of setback along the side of the building, any shadow falls primarily on the parking garage proposed behind the Block 5 building on Lot 18 in the a.m. By noon and beyond, the shadows fall only on other buildings in the Foulger-Pratt project. The shadow impact will be no worse or better than would be the case under the current approved condition.

5. *There must be a mix of uses, including residential, office and commercial.* The Mayor and Council may authorize modifications to this use requirement where the strict application would result in practical difficulty or unnecessary hardship upon the owners. The proposed development includes a mix of office and retail commercial uses. The approved Use Permit shows 8,000 square feet of ground level retail in the Phase III building. Modification to the mix of uses requirement is acceptable because there is no change in the overall approved use mix.

6. *Pedestrian ways must link the site with adjoining properties and the Metro station.* The existing sidewalks will provide links both to the other commercial areas as well as to the Metro station.

7. *Building heights may be allowed up to a maximum of 235 feet in the TCM-2 Zone.* The proposed PDP would allow the height of the Phase III building to go from 100 feet to 115 feet measured from the 448 foot elevation. This is allowed under the optional method.

8. *Where the development includes the provision of easements for public streets or pedestrian ways, the area of the rights of way or easement may be used to calculate the FAR.* These areas are included in the calculations; and

WHEREAS, this matter having been fully considered by the Mayor and Council, the Mayor and Council having decided that the Preliminary Development Plan would promote the health, safety and general welfare of the Citizens of Rockville, the Mayor and Council further finding, pursuant to Section 25-683 of the Zoning and Planning Ordinance, based upon Preliminary Development Plan Application PDP2004-00008, approved Use Permit Application USE1997-0577, the Staff Report dated November 10, 2004, the Planning Commission Recommendation dated November 18, 2004, the public hearing of December 6, 2004, as well as the remaining matters contained in the record, as follows:

1. The application is in substantial accordance with the intent and purpose of Article XIII of the Zoning and Planning Ordinance. The proposed development is consistent with the intent of Article XIII as set forth in Section 25-671 of the Zoning and Planning Ordinance.

2. The application is in substantial accordance with the Plan. The proposal generally implements many of the recommendations of the Town Center Master Plan. The project provides substantial employment density across the street from the Metro station, which is consistent with the intent of the Master Plan.

3. The application is compatible with adjacent existing and permitted uses and developments. The proposed development is part of an approved high-density office and

retail development, adjoins approved moderate-intensity mixed-use residential and retail development, and is located in close proximity to the Metro rapid transit station.

4. The application does not violate any provision of this Chapter or other applicable law.

5. The application does not violate or adversely affect the Plan.

6. The application will not overburden existing public services, including but not limited to water, sanitary sewer, public roads, storm drainage and other public improvements. The proposal is served by adequate water and sewer service. Since there is no change in the gross floor area or on site circulation compared to the approved use permit plan, there will be no change in the traffic generated from this site under the ultimate development.

7. The application will not affect adversely the health or safety of persons residing or working in the subdivision or neighborhood. There is no evidence that health or safety will be adversely affected. The proposal provides for improved sidewalks consistent with the Town Center guidelines and on site structured parking.

8. Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. There will be no impact from the approval of the Preliminary Development Plan, since there is no change in the overall character of the project as currently approved.

9. Will not be unsuitable for the type of development, the use contemplated and available public utilities and services. The proposed development is consistent with the recommendations of the Town Center Master Plan. Utilities and services are planned to accommodate the development proposed in the Master Plan.

10. Will not unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil. Virtually the entire site is currently covered by buildings or other impervious surfaces. There will be no significant change to the topography of the site resulting from the proposed development.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Preliminary Development Plan Application PDP2004-00008, be and the same is hereby approved, subject to the following conditions:

1. All conditions of approved Use Permit USE1997-0577, as set forth in the approval letter dated January 5, 1999, shall remain in effect except as specifically modified by Preliminary Development Plan Application PDP2004-00008, and the conditions hereinafter set forth.
2. The building height for the Phase III building shall not exceed 115 feet, as measured from the 448 foot elevation above sea level. The other two buildings may not exceed 100 feet above the 448 foot level.
3. The Phase III building, exclusive of the parking garage, must be set back 30 feet from the west property line.
4. There will be no increase in the gross floor area of the Phase III building.
5. The additional story added to the Phase III building must be set back at least 10 feet from the building facade on all sides.
6. The applicant will show on the plan the existing ingress-egress easements with the adjoining lot, including the truck-only easement exiting onto East Middle Lane.

7. Applicant will submit for the approval of the Chief of Planning, 15 copies of the Preliminary Development Plan, revised in accordance with this resolution.

* * * * *

I hereby certify that the foregoing is a true and correct copy
of a resolution adopted by the Mayor and Council at its
meeting of

Claire F. Funkhouser, CMC, City Clerk

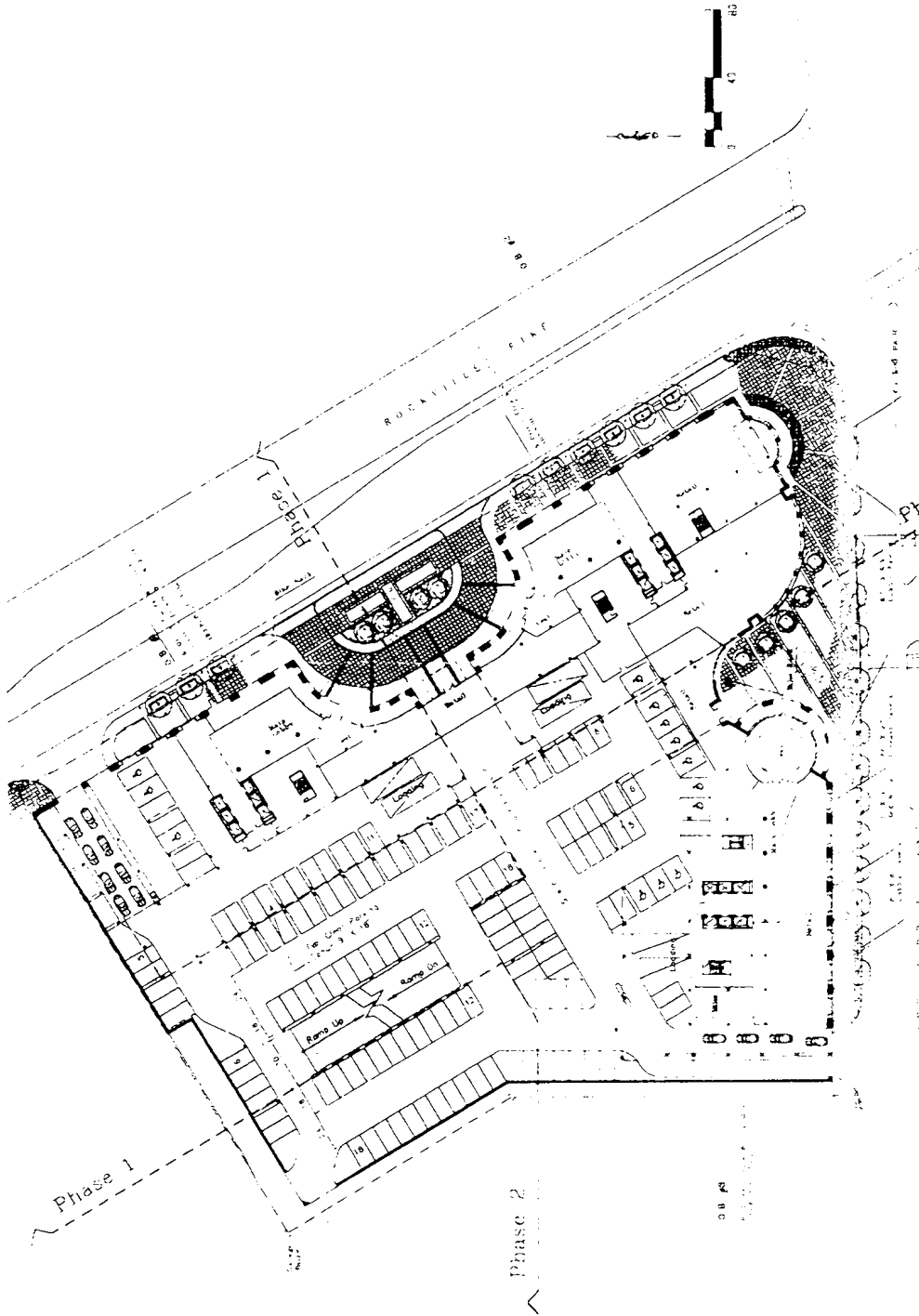
**SUMMARY OF TESTIMONY FOR PUBLIC HEARING
HELD DECEMBER 6, 2004
PDP2004-00008
ROCKVILLE METRO CENTER**

Speaker	Summary of Testimony
Barbara Sears – Attorney for applicant; Steve Schwartzman – architect	The PDP is for the purpose of adding additional height to a previously-approved building. The proposed amendment will improve the orientation of the Phase 3 building as it relates to the approved Town Square development on the west side. Provides more light for offices on the west side the building. Shadow study indicates that the shadows will be the same as, or have less impact, than the original design due to the added setback.

Questions raised by Mayor and Council to be Addressed at D&I:

- Provide added details on what is happening at the ground level as far as pedestrian circulation through the site. Compare with original approved plans.
- Provide details on layout and floor area for the ground floor retail uses in the project.

19/16/04

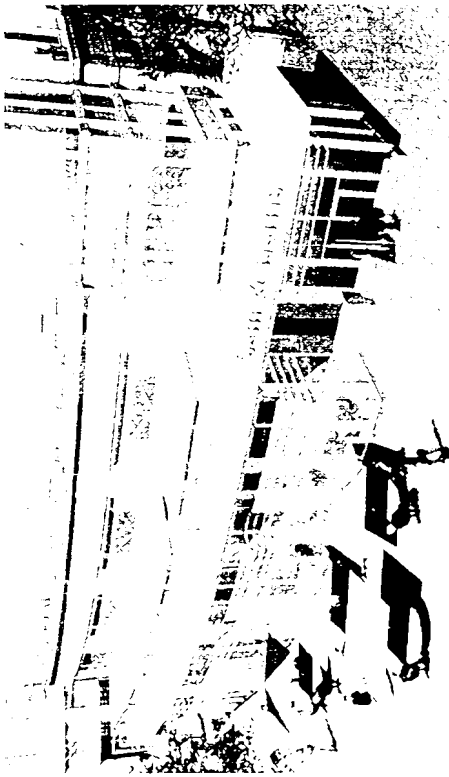


Phase III Design
Original Use Permit
P1 / Ground Floor Plan

ROCKVILLE METRO PLAZA

FOULGER PRATT CONSTRUCTION
ROCKVILLE, MARYLAND





Revised Phase III Design **Streetscape Perspectives**

12/16/04

ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
 ROCKVILLE, MARYLAND



Rockville Metro Plaza Phase 3

Pedestrian circulation:

The pedestrian circulation on the site is solely along the sidewalks of Rockville Pike and East Middle Lane. On the Rockville Pike façade there is an arcade along the building then a 20' wide tree lined sidewalk. A circular drop-off is located between the phase 1 & 2 buildings. The arcade stops at the corner of Rockville Pike and East Middle Lane. The East Middle Lane façade has varying depths of sidewalk along the phase 2 & 3 buildings with a plaza located between buildings 2 & 3. East Middle Lane is also lined with trees and follows the Rockville standard sidewalk design of patterned concrete and masonry. A walkway through the phase 3 building provides pedestrian access from the parking garage to the plaza. A sidewalk is also provided on site to allow pedestrian access from the rear of Block 5 of the Town Center to East Middle Lane.

The programmed uses on the ground level include retail and 3 lobbies for the office towers. There will be approximately 23,000 s.f. of retail in the finished complex.

Changes from Original Use Permit:

The changes between the original use permit and the current application are minimal. As previously noted, the current application is related solely to the building height modification and the attendant increased setback along the western property line. No other changes to the use permit are proposed with this application.

Regardless, it may be useful to note that, as the building and site designs have developed since the original approval, minor changes from the original use permit have been incorporated, including minor modifications to the footprint of the Phase 2 & 3 buildings and relocation of the Entrance Lobby of the Phase 3 building to the center of the building for improved retail design. Moreover, at Staff's request, a pathway from the building garage to the East Middle Lane Plaza was previously added to improve pedestrian circulation.

No other significant changes have been incorporated into the site plan since approval of the original use permit.

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

December 22, 2004

Barbara A. Sears
301.961.5157
bsears@linowes-law.com

Erin E. Girard
301.961.5153
egirard@linowes-law.com

Mr. Deane Mellander
City of Rockville
111 Maryland Avenue, 2nd Floor
Rockville, MD 20850

Re: PDP2004-00008 (Rockville Metro Plaza)

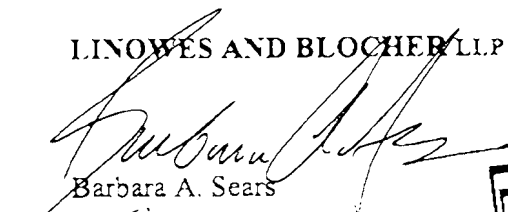
Dear Deane:

As previously discussed, we would like to clarify the nature of the building heights currently reflected on the above-referenced PDP plan. On the plan previously submitted to you, the building height for Building 2 is shown as 100 feet, while the building height for Building 3 is shown as 136 feet 4 inches. As you are aware, these heights are measured from two different points (Building 2 from the 448-foot elevation and Building 3 from grade). As required under the TCM-2 Zone provisions in the Zoning Ordinance, the building heights for this project should all be measured from the 448-foot elevation. See Section 25-311, "Tables of Development Standards." Therefore, Building 3's height should more correctly be shown as 115 feet from the 448-foot level, an increase of 15 feet from the approved use permit, and not 136 feet 4 inches from grade as shown on the previously submitted plan.

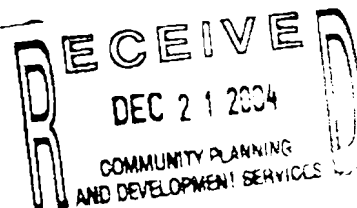
To further clarify this point, we have attached three full-sized copies and one reduced copy of a revised PDP plan consistently identifying the heights of all buildings based on the 448-foot elevation. Please include this revised plan in the record. Thank you for your attention to this matter. If you have any questions or concerns, please feel free to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP


Barbara A. Sears


Erin E. Girard



Enclosures

(14)

LINOWES
AND **BLOCHER** LLP
ATTORNEYS AT LAW

Mr. Deane Melander
December 22, 2004
Page 2

cc: Mr. Clayton Foulger
Mr. Steven Schwartzman
Mr. Robert Spalding

L&B 393525v1/05500 0069



HUNGERFORD DRIVE - MARYLAND ROUTE 355

RECEIVED
DEC 21 2004
COMMUNITY PLANNING
AND DEVELOPMENT SERVICES

EAST MIDDLE LANE

ROCKVILLE STREET



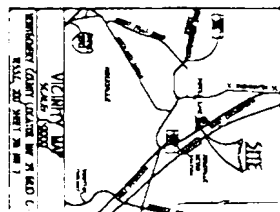
GENERAL SITE NOTES:

1. The site is located in the City of Rockville, Maryland, within the Rockville Metro Plaza development.
2. The site is bounded by Hungerford Drive to the north, East Middle Lane to the east, and Rockville Street to the south.
3. The site is currently vacant and is to be developed for commercial use.
4. The proposed development consists of three buildings: Building 1 (a four-story office building), Building 2 (a two-story retail building), and Building 3 (a two-story retail building).
5. The proposed parking lot is located to the west of the buildings and is to be paved with asphalt.
6. The proposed streets are to be constructed to meet the standards of the City of Rockville.
7. The proposed development is to be constructed in accordance with the City of Rockville's Comprehensive Zoning Ordinance.
8. The proposed development is to be constructed in accordance with the City of Rockville's Subdivision Ordinance.
9. The proposed development is to be constructed in accordance with the City of Rockville's Environmental Ordinance.
10. The proposed development is to be constructed in accordance with the City of Rockville's Historic Ordinance.

CONCEPT LAYOUT LEGEND:

- PROPOSED IMPROVED BUILDINGS
- PROPOSED IMPROVED PARKING
- PROPOSED IMPROVED STREETS

USE PROJECT NO. UNCT-0077
PRELIMINARY DEVELOPMENT PLAN
LOT 1A, BLOCK 2
NAT BOKK FM NAT 2ND
ROCKVILLE METRO PLAZA
HUNGERFORD DRIVE, MARYLAND



PROPOSED IMPROVED BUILDINGS
PROPOSED IMPROVED PARKING
PROPOSED IMPROVED STREETS

UNCT-0077
PRELIMINARY DEVELOPMENT PLAN
LOT 1A, BLOCK 2
NAT BOKK FM NAT 2ND
ROCKVILLE METRO PLAZA
HUNGERFORD DRIVE, MARYLAND

PDP-1



City of Rockville

MEMORANDUM

November 18, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Recommendation on Preliminary Development Plan application PDP2004-00008 - Rockville Metro Center, Foulger-Pratt

At its meeting of November 17, 2004 the Planning Commission reviewed the above referenced Preliminary Development Plan (PDP) application. The proposal is to add an additional floor to the Phase 3 office building and increase the building setback from 15 feet to 30 feet. The office building is part of an approved Use Permit for the 3-building Rockville Metro Center project.

The Planning Staff Report recommended approval of the PDP with one additional condition. The recommended additional condition requires that the applicant show on the plan the existing ingress-egress easements with the adjoining lot, including the truck-only easement exiting onto East Middle Lane. The applicant agreed to the condition and the Planning Commission concurs with this added condition.

The Planning Commission received comments from the staff and applicant. There were no other comments received.

The Planning Commission supports the proposed PDP application. Commissioners Holtz and Johnson commented that they believed that the proposed building design was better than the original. Therefore on a motion by Commissioner Britton, seconded by Commissioner Mullican, the Planning Commission voted to recommend approval of the proposed PDP by a vote of 6 to 0 with one absent.

/s/

cc: Planning Commission

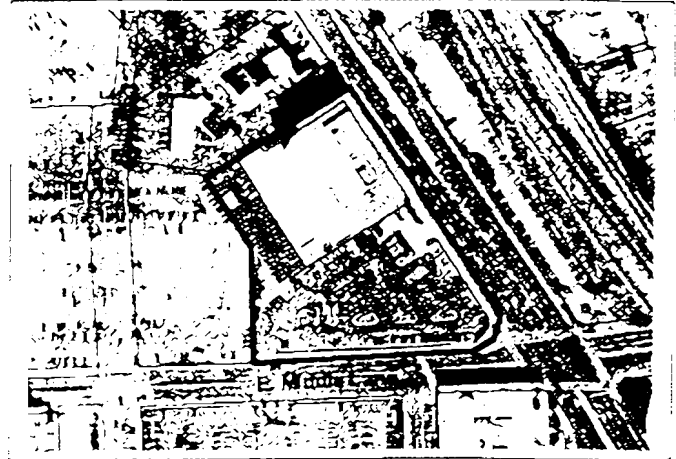
**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

November 10, 2004

SUBJECT: Preliminary Development Plan
Application PDP2004-00008
Rockville Pike and East
Middle Lane
Foulger-Pratt

Applicant: Rockville Metro Plaza I, LLC

Owner: F-P Rockville II Limited
Partnership, F-P Rockville III
Limited Partnership
4600 Blackwell Road
Rockville, MD 20854



Date Filed: September 15, 2004

Location: 121 Rockville Pike

REQUEST:

- The applicant requests approval of a Preliminary Development Plan to amend an existing approved use permit (USE97-0577) to add an additional floor to the Phase 3 building of the Foulger-Pratt project. Because the added floor increases the building height above height permitted in the TCM-2 Zone, the applicant must apply for the optional method and file a Preliminary Development Plan. The application will increase the building setback by 15 feet along the Middle Lane frontage. There is no change proposed in the site plan design, and no change in the gross floor area.

PREVIOUS RELATED ACTIONS:

Use Permit USE97-0577 was approved on December 2, 1999 for a 620,000 square foot office project consisting of 3 buildings. The use permit was approved under the standards of the TCM-2 Zone, which allow building height up to 100 feet.

RELEVANT ISSUES

In reviewing the application, the following issues emerged and have been addressed:

- Compatibility with the Citywide Master Plan recommendations.
- The relationship to other adjoining uses around the site.

ANALYSIS

Background

The subject property is at the northwest corner of the intersection of Rockville Pike and East Middle Lane in the town center area.

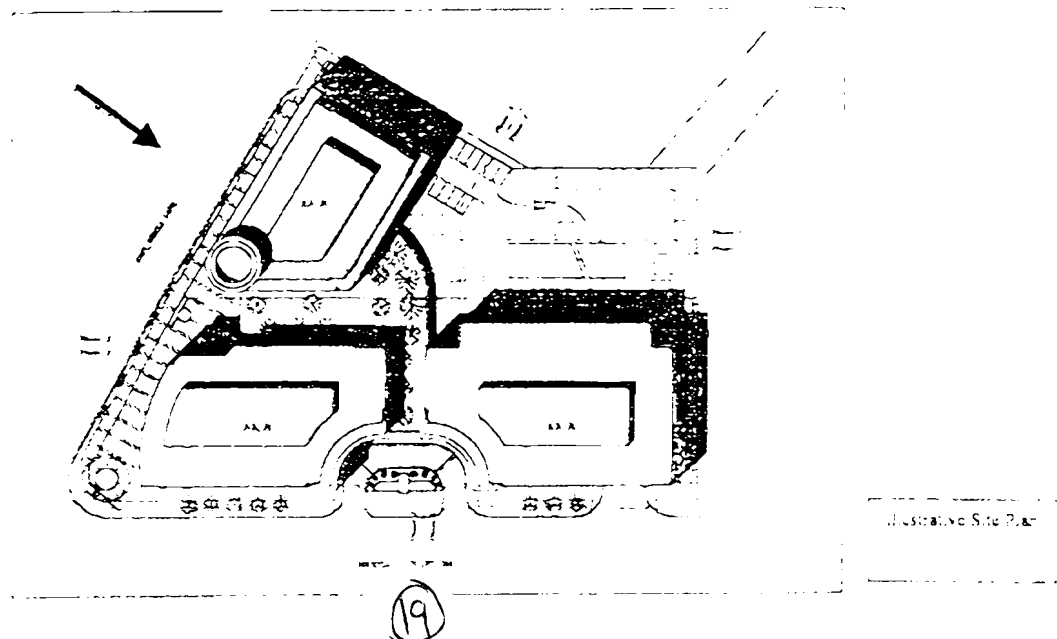
Property Description

The total property is an irregular polygon. It consists of Lot 16-B of the City Center subdivision, containing 3.52983 acres. The Phase III building is located on Ownership Lot N181. The area of the ownership lot is 45,154 square feet, or 1.04 acres. The lot has frontage on East Middle Lane. The site is currently improved with a surface parking lot in association with the Phase I building of the approved use permit.

Proposal

The Preliminary Development Plan (PDP) has been filed under the optional method in the TCM-2 Zone. The optional method allows for a greater range of uses, reduced parking requirements, and more flexible development standards than are available under the standard zoning provisions. The PDP must be approved by the Mayor and Council. The subsequent use permit(s) must be approved by the Planning Commission and be in conformance with the provisions of the approved PDP.

The application proposes to retain the approved Phase III building, but increase the building setback from the adjoining Lot 18 from 15 feet to 30 feet. In order to do this while retaining the approved 173,530 square feet of gross floor area, the applicant is proposing to add an additional floor to the top of the building. Because this additional floor will exceed the 100 feet of building height permitted under the standard method of development in the zone, the applicant must obtain approval of a Preliminary Development Plan under the optional method of development. No other changes to the site plan or building footprint are proposed.

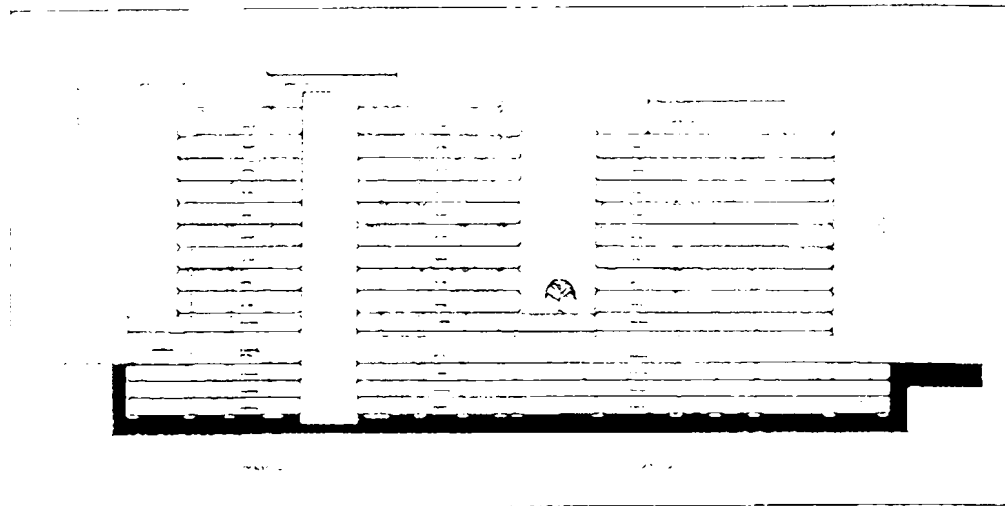


Interrelationship between the Preliminary Development Plan (PDP), Illustrative Plan and the Use Permits

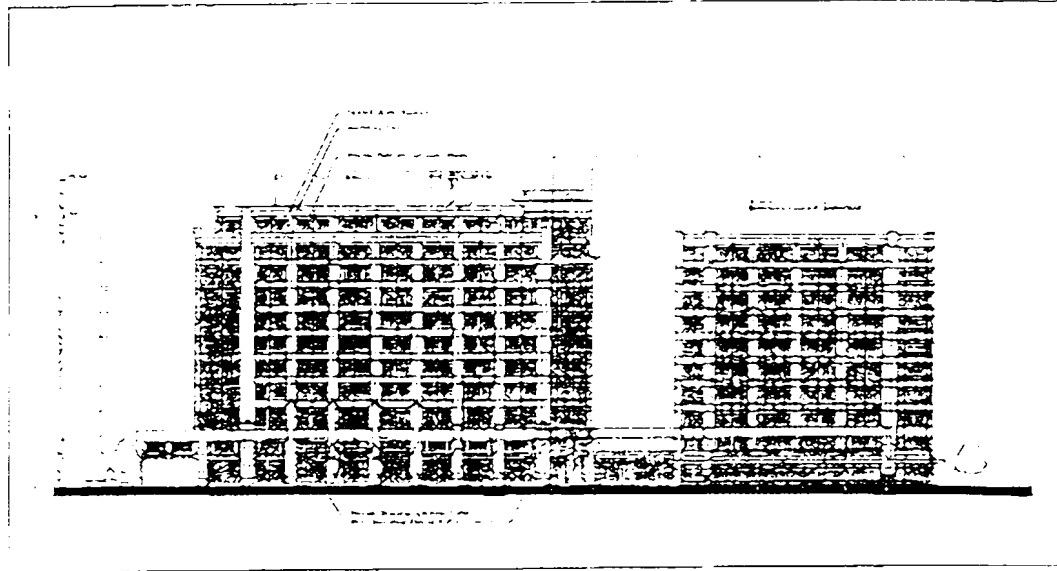
The PDP sets the overall levels of development at a concept plan level. The PDP is implemented by a subsequent Use Permit that serves as the detailed site plan and the point at which compliance with the development standards (setbacks, height, parking requirements) and the design guidelines are evaluated. There are two separate plans associated with the PDP - a concept plan and an illustrative plan.

The concept plan or bubble diagram identifies the total amount of development (by type), building heights, and the number of parking spaces. This is the plan that will be acted on by the Mayor and Council. The concept plan sets the overall development density envelope. Minor reallocations of densities may be allowed during the approval of Use Permits, so long as the overall density envelope is not exceeded.

The second plan is an illustrative plan that shows proposed details that will be fully evaluated as part of the subsequent use permits. The illustrative plan is an exhibit in the PDP approval, but the actual layouts are not approved as part of the PDP. It has been extremely helpful to have the illustrative plan to show the intent of the development, establish access points, and to provide a sense of the scale and design of the proposed buildings. The illustrative plan is shown on Exhibit for reference.



Illustrative Building Sections



Illustrative Building Facades

Development Standards -- Optional Method

This project is proceeding under the optional method of development in the TCM-2 zone. Under this procedure, the Mayor and Council may grant a greater variety of land uses and flexibility in setback requirements where development complies with more extensive standards of urban design review and traffic impact review and mitigation. In addition, there is more flexibility in development process, and an allowance for reductions in the parking requirements. In this case the applicant is pursuing the optional method only to achieve the additional building height required as a consequence of increasing the building setback.

The optional method sets forth the following set of requirements, which are accompanied by the staff's findings for each:

1. *The site must be a minimum of 2 acres.* The overall size of Lot 16 is 3.52983 acres.
2. *The applicant must submit a traffic study in conformance with the Comprehensive Transportation Review methodology.* A traffic study was done in conjunction with the review of the use permit application. There is no change in the approved floor area nor any change proposed in the site circulation. Therefore staff concludes that no new traffic study is required.
3. *Development is subject to an urban design review process.* One of the conditions of approval of the PDP is that each use permit must generally comply with the adopted Design Guidelines for the Town Center. The illustrative plan generally complies with the Design Guidelines.

4. *A shadow study must be performed, such that no building can cast a shadow on an existing or approved residential structure between 10:00 a.m. and 2:00 p.m. on December 21. At the time the original use permit was approved, there was no development existing or proposed on the adjoining property to the west. Any shadows from the proposed building would fall on parking lots. The shadow study submitted by the applicant indicates that any shadow falling on the adjoining proposed building on Lot 18 between 10:00 a.m. and 2:00 p.m. will be no worse or better than the approved condition. With the 10-foot setback of the new story at the top, and the added 15 feet of setback along the side of the building, any shadow falls primarily on the parking garage proposed behind the Block 5 building on Lot 18 in the a.m. By noon and beyond, the shadows fall only on other buildings in the Foulger-Pratt project. Staff concludes that the shadow impact will be no worse or better than would be the case under the current approved condition.*
5. *There must be a mix of uses, including residential, office, and commercial. The Mayor and Council may authorize modifications to this use requirement where the strict application would result in practical difficulty or unnecessary hardship upon the owners. The proposed development includes a mix of office and retail commercial uses. The approved Use Permit shows 8,000 square feet of ground level retail in the Phase III building. Modification to the mix of uses requirement is acceptable because there is no change in the overall approved use mix.*
6. *Pedestrian ways must link the site with adjoining properties and the Metro station. The existing sidewalks will provide links both to the other commercial areas as well as to the Metro station.*
7. *Building heights may be allowed up to a maximum of 235 feet in the TCM-2 Zone. The proposed PDP would allow the height of the Phase III building to go from 100 feet, measured from the 448 foot elevation, to 115 feet. This is allowed under the optional method.*
8. *Where the development includes the provision of public streets or easement for public ways, the area of the rights-of-way or easement may be used to calculate the FAR. These areas are included in the calculations.*

Required Findings

Optional method approval requires the same findings as a preliminary plan of subdivision. The required findings are listed below with a brief statement regarding the finding. Detail information supporting the findings is contained in the relevant sections of the staff report.

In reviewing Preliminary Development Plans, the Planning Commission must find that the application will not:

1. *Constitute a violation of any provision of this chapter or other applicable law. The proposal complies with the relevant provisions of the Zoning Ordinance as described in the Analysis section.*

2. *Violate or adversely affect the Plan:* The proposal generally implements many of the recommendations of the Town Center Master Plan. The approved project provides substantial employment density directly across the street from the Metro station, which is consistent with the intent of the master plan.

3. *Overburden existing public services, including but limited to water, sanitary sewer, public roads, storm drainage and other public improvements:* The proposal is served by adequate water and sewer service. Since there is no change in the gross floor area or on-site circulation compared to the approved use permit plan, there will be no change in the traffic generated from this site under the ultimate development.

4. *Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood:* There is no evidence that health or safety will be adversely affected. The proposal provides for improved sidewalks consistent with the Town Center guidelines and on-site structured parking.

5. *Be detrimental to the public welfare or injurious to property or improvements in the neighborhood:* There will be no impact from the approval of this PDP, since there is no change in the overall character of the project as currently approved.

6. *Be unsuitable for the type of development, the use contemplated and available public utilities and services:* The proposed development is consistent with the recommendations of the Town Center Master Plan. Utilities and services are planned to accommodate the development proposed in the master plan.

7. *Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil:* Virtually the entire site is currently covered by buildings or other impervious surfaces. There will be no significant change to the topography of the site resulting from the proposed development.

Parking

A 26 percent parking reduction was approved under the Use Permit. No changes are proposed under the PDP application. The Traffic and Transportation Division has indicated that they have some concerns about the truck movements within the parking garage. These issues will be addressed at the time the amended use permit application is submitted.

Environmental Review

Public Sewer

Sewer service is already provided at the site to serve the existing and approved development. Wastewater treatment will be provided at the Blue Plains Wastewater Treatment Plant in the District of Columbia, of which Rockville has purchased sufficient treatment capacity to accommodate the Town Center developments.

Public Water

Rockville currently provides water service to the site to serve the existing and approved development. Rockville's existing water treatment plant, located on Sandy Landing Road in Potomac, is under renovation. The renovation and upgrade program, which will be completed in 2005, will allow the plant to meet the water demand created by the Town Center Master Plan level of projected development. Additionally, a Water Pumping Station on Glen Mill Road is needed to augment the City's water distribution system to meet the water demand created by the Town Center Master Plan level of projected development. The pump station will be operational in 2005.

Rockville has adequate facilities to provide service demand volume and street level water pressure as recommended by the American Water Works Association (AWWA). High-rise buildings may require secondary water supply for fire protection of the upper floors. This will be determined as part of the building permit review process.

Stormwater Management (SWM)

The Department of Public Works (DPW) reviewed and approved the stormwater management concept in connection with use permit USE97-0577.

Public Notice

Post card notice of the proposed PDP application and Planning Commission meeting date were sent to all adjoining and confronting property owners surrounding the project. In addition, post cards were sent to all civic associations in the neighborhoods surrounding the project.

STAFF RECOMMENDATION

Approval is recommended, subject to the following conditions:

1. Submission, for the approval of the Chief of Planning, of 15 copies of the Preliminary Development Plan, revised according the Mayor and Council Exhibit "A", to include the following:
 - a. Building height not to exceed 115 feet for the Phase III building, as measured from the 448 foot elevation above sea level. The other two buildings may not exceed 100 feet above the 448 foot level.
 - b. The Phase III building, exclusive of the parking garage, to be set back 30 feet from the west property line.
 - c. No increase in the gross floor area of the Phase III building;
 - d. The additional story added to the Phase III building must be set back at least 10 feet from the building façade on all sides.
 - e. All other conditions of approval of Use Permit USE97-0577, as set forth in the approval letter dated January 5, 1999, to remain in effect.

DEM/

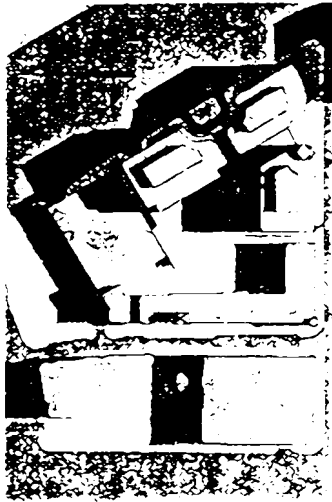
Attachments:

1. PDP Generalized Land Use Concept Plan
2. Shadow Analysis
3. Use Permit approval letter, January 5, 1999
4. Statement of Applicant
5. Applicant's traffic statement
6. Tax map with site location
7. Illustrative Drawings and Perspectives

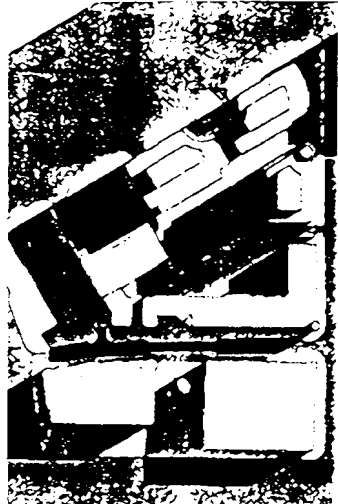
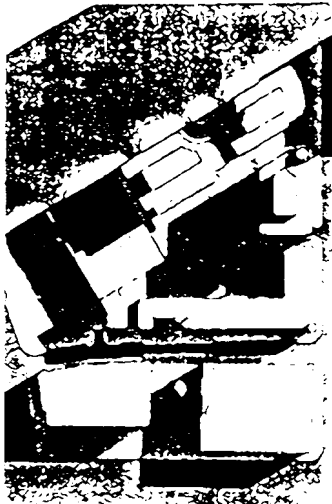
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11
Stones

27

12
Stones

Revised Phase III Design
Shadow Study Dec. 21st

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ROCKVILLE METRO PLAZA

FOULGER-PRATT CONSTRUCTION
ROCKVILLE, MARYLAND

